

ASSEMBLY BILL

No. 2976

Introduced by Assembly Member Mountjoy

February 24, 2006

An act to add Sections 123447 and 123448 to the Health and Safety Code and Article 6 (commencing with Section 11199.5) to Chapter 2 of Title 1 of Part 4 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 2976, as introduced, Mountjoy. Child abuse: reporting.

Existing law establishes the Child Abuse and Neglect Reporting Act, which requires specified persons who have knowledge of or observe a child in their professional capacity or within the scope of their employment, whom the person knows or reasonably suspects has been the victim of child abuse or neglect to report the known or suspected instance of child abuse or neglect to a specified agency.

This bill would create the Child Sexual Abuse, Exploitation, and Rape Reporting and Deterrence Act of 2006, which would require all licensed medical personnel, including physicians and surgeons, physician assistants, nurses, nurse practitioners, and pharmacists, and their ancillaries and assistants to report, within 24 hours of receiving the reportable information, to a law enforcement or child protective agency their knowledge or reasonable suspicion that a minor has contracted a sexually transmitted disease or is pregnant. This bill would make a person who fails to report the information within 24 hours subject to criminal and civil penalties.

Existing law makes it unlawful for any person to use any type of aborted product of human conception, other than fetal remains, for any type of scientific or laboratory research or for any other kind of experimentation or study, except to protect or preserve the life and

health of the fetus. Existing law requires that any fetal remains used for scientific study must be promptly interred or disposed of at the conclusion of the study.

This bill would require a physician or surgeon who performed an abortion on a minor to collect sufficient tissue from the fetal remains and submit the tissue to a district attorney's office for DNA analysis to determine paternity. This bill would require the tissue and documentation regarding chain of custody to be preserved for 4 years in case of use in a criminal proceeding.

Because this bill would create new crimes and new duties for local officials, it would impose state-mandated local programs.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Child Sexual Abuse, Exploitation, and Rape Reporting and
3 Deterrence Act of 2006.

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5 Child Sexual Abuse, Exploitation, and Rape Reporting and
6 Deterrence Act of 2006

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8 SEC. 2. The Legislature finds and declares the following:

9 (a) Sexual abuse of a minor child causes grave and lasting
10 physical, emotional and psychological injuries to the person who
11 suffers this abuse and to their families, associates, and society.

12 (b) Victims of child sexual abuse have an increased likelihood
13 of becoming perpetrators of child sexual abuse and thus
14 perpetuating the sexual abuse of minor children.

1 (c) The continued sexual abuse of a minor child greatly
2 increases the damage to the child and therefore every reasonable
3 effort should be made to report the sexual abuse of a minor child
4 so that prompt actions may be taken to protect the child from
5 continuing or further sexual abuse.

6 (d) The physical consequences of sexual abuse of children
7 cause serious trauma, morbidity, and mortality to its victims,
8 including immediate and often irreparable bodily injuries and
9 mutilations, pregnancies, with subsequent births, miscarriages, or
10 spontaneous or induced abortions, and sexually transmitted
11 diseases, some of which are incurable diseases, with long term
12 sequelae including cervical and other cancers, and sexual and
13 reproductive malfunctions, including infertility, sterility, and
14 birth defects in future children of victims of child sexual abuse.

15 (e) The emotional and psychological consequences of sexual
16 abuse of children can be lifelong and very severe and result in
17 prolonged and grave social, behavioral, psychological, and
18 sexual problems for the victims, including difficulty in forming
19 good relationships and marriages, abuse of drugs and alcohol,
20 chronic depression, and suicide.

21 (f) Sexual abuse of minors is criminal conduct and must be
22 reported to law enforcement personnel, district attorneys, child
23 protection authorities, and to parents and guardians in order to
24 protect minors from sexual abuse and especially from the
25 continuation of sexual abuse.

26 (g) Persons who have knowledge of, or have reason to suspect
27 that a minor has, or is, suffering from sexual abuse and who fail
28 to report the sexual abuse, or their suspicion of the sexual abuse,
29 are aiding and abetting criminal conduct and are engaging in
30 criminal conduct by facilitating repeated sexual abuse of a minor
31 child.

32 (h) Among the most obvious physical indications of sexual
33 abuse of a minor is medical knowledge or reasonable suspicion
34 that a minor child is suffering from a sexually transmitted disease
35 or is pregnant.

36 (i) Prompt reporting and investigation of reasonable suspicions
37 of sexual abuse of children, physical evidence of sexual abuse of
38 children, or both, are the first essential steps in protecting a child
39 from continuing sexual abuse and also in protecting other
40 children from future abuse.

1 (j) A study of over 46,000 pregnancies of school-age girls in
2 California found that 71 percent or over 33,000, were fathered by
3 adult men whose mean age was 22.6 years.

4 (k) Undercover, recorded and transcribed telephone calls made
5 to more than 60 Planned Parenthood Clinics in California showed
6 that in most cases, Planned Parenthood staff assured a caller
7 presenting herself as a 13 years of age impregnated by a man 22
8 years of age, that Planned Parenthood would perform a secret
9 abortion on her and provide her with birth control and that they
10 would not report her as a victim of statutory rape and sexual
11 abuse as required by California law.

12 (l) Inquiries made to law enforcement agencies in Los Angeles
13 County found that Planned Parenthood had made almost no
14 reports of sexual abuse, exploitation or rape of minor children, in
15 spite of the fact that Planned Parenthood widely advertises to
16 young girls that it performs secret abortions without the
17 knowledge or consent of a parent. It is well known that Planned
18 Parenthood files Medi-Cal claims for payment of large numbers
19 of the abortions performed on young girls.

20 (m) Therefore, in order to prevent and discourage the sexual
21 abuse of minors, and especially to prevent and deter the
22 continued sexual abuse of children, it is the intent of the
23 Legislature to require that all licensed medical personnel,
24 including physicians and surgeons, physician assistants, nurses,
25 nurse practitioners, and pharmacists, and their ancillaries and
26 assistants promptly report to a law enforcement agency their
27 knowledge or reasonable suspicion that a minor has contracted a
28 sexually transmitted disease or is pregnant.

29 SEC. 3. Article 6 (commencing with Section 11199.5) is
30 added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

31
32 Article 6. Child Sexual Abuse, Exploitation, and Rape
33 Reporting and Deterrence Act
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35 11199.5. All licensed medical personnel, including physicians
36 and surgeons, physician assistants, nurses, nurse practitioners,
37 and pharmacists, and their ancillaries and assistants, shall be
38 required to promptly report to a law enforcement or child
39 protective agency their knowledge or reasonable suspicion that a
40 minor has contracted a sexually transmitted disease or is

1 pregnant. This reporting obligation shall apply individually and
2 collectively.

3 1119.51. (a) The report required by Section 11199.5 shall be
4 made within 24 hours of the time that the person required to
5 report becomes aware of the reportable information.

6 (b) The obligation to make the report required by Section
7 11199.5 may be satisfied by reporting to any one of the following
8 agencies in the jurisdiction in which the reporter or the minor
9 resides: a police or sheriff's department, a district attorney's
10 office, a county child protective service, the California Highway
11 Patrol, or a State Attorney General's office.

12 11199.52. (a) An agency receiving a report pursuant to
13 Section 11199.51 shall communicate the report within twenty
14 four hours to the appropriate agency or agencies to carry out an
15 investigation of the report.

16 (b) The appropriate agency or agencies shall carry out an
17 investigation of the report within one week and if evidence of
18 sexual abuse of a minor is found, the agency shall take prompt
19 and appropriate actions firstly, to protect the minor child from
20 further sexual abuse, and secondly, to prosecute those
21 responsible for the sexual abuse.

22 11199.53. (a) Failure to comply with the reporting
23 requirements of Sections 11199.5 and 11199.51 is a
24 misdemeanor punishable by imprisonment in a county jail for a
25 period not to exceed six months, a fine not to exceed one
26 thousand dollars (\$1,000), or by both that imprisonment and fine.

27 (b) Failure of licensed medical personnel, including physicians
28 and surgeons, physician assistants, nurses, nurse practitioners,
29 and pharmacists, to comply with the reporting requirements of
30 Sections 11199.5 and 11199.51 shall be reported to the
31 appropriate licensing boards and shall be considered grave
32 unprofessional conduct.

33 (c) A third willful failure to report and thus protect minor
34 children from sexual abuse and continued sexual abuse, by any
35 person who is required to make a report under provisions of
36 Sections 11199.5 and 11199.51, shall be a felony punishable by
37 imprisonment in the state prison.

38 (d) Failure to comply with Sections 11199.5 and 11199.51
39 shall also constitute grounds for a cause of action against the
40 person who failed to comply with the reporting requirements of

1 this act for damages suffered by a minor or the family or
2 guardian of the minor.

3 11199.54. The district attorney of each county and the
4 Attorney General shall prepare an annual report to the
5 Legislature on the numbers and disposition of reports of sexual
6 abuse of minor children made under the provisions of this act.

7 SEC. 4. Section 123447 is added to the Health and Safety
8 Code, to read:

9 123447. Notwithstanding Sections 123440 and 123445, a
10 physician and surgeon performing an abortion on a minor shall
11 collect sufficient tissue from the fetal remains, as defined in
12 Section 123440, to permit DNA testing to determine paternity
13 and submit the tissue to the district attorney of the county in
14 which the abortion is performed. The tissue shall be preserved,
15 along with sufficient documentation to adequately identify the
16 tissue and establish the chain of custody for a period of four
17 years, and shall be made available upon court order for the
18 purpose of determining paternity and establishing the guilt or
19 innocence of the accused in any criminal action regarding sexual
20 crimes relating to the aborted pregnancy.

21 SEC. 5. Section 123448 is added to the Health and Safety
22 Code, to read:

23 123448. No claim shall be paid by the Medi-Cal program or
24 any other program paid for or subsidized by the State of
25 California for any abortion performed on a minor child, unless
26 the claim for payment is accompanied by proof that the reporting
27 requirements of the Child Sexual Abuse, Exploitation, and Rape
28 Reporting and Deterrence Act of 2006 have been fulfilled and
29 that the submission of tissue from the abortion to the appropriate
30 district attorney has been completed as required by the act.

31 SEC. 6. The provisions of this article are severable. If any
32 provision of this article or its application is held invalid, that
33 invalidity shall not affect other provisions or applications that can
34 be given effect without the invalid provision or application.

35 SEC. 7. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution for
37 certain costs that may be incurred by a local agency or school
38 district because, in that regard, this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the
40 penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a
2 crime within the meaning of Section 6 of Article XIII B of the
3 California Constitution.

4 However, if the Commission on State Mandates determines
5 that this act contains other costs mandated by the state,
6 reimbursement to local agencies and school districts for those
7 costs shall be made pursuant to Part 7 (commencing with Section
8 17500) of Division 4 of Title 2 of the Government Code.

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